

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO.	
v.	:	DATE FILED:	
BEF CORP.	:	VIOLATIONS:	33 U.S.C. § 1319(c)(2)(A)
ELWARD B. BREWER	:		(knowing discharge of
	:		pollutants in violation of
	:		pretreatment standards - 3
	:		counts)
	:		33 U.S.C. § 1319(c)(1)(A)
	:		(negligent discharge of
	:		pollutants in violation of
	:		pretreatment standards - 1
	:		count)
	:		18 U.S.C. § 2 (causing an act to
			be done)

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times relevant to this information:

APPLICABLE ENVIRONMENTAL REGULATIONS

1. The Water Pollution Control Act, Title 33, United States Code, Sections 1251 et seq. (the "Clean Water Act") was enacted to restore and maintain the nation's waterways.
2. The Clean Water Act sought to protect the nation's waterways, in part, by authorizing the United States Environmental Protection Agency (the "EPA") to promulgate regulations to ensure the safe, efficient and effective operation of sewage plants, referred to under the Act as Publicly Owned Treatment Works ("POTWs").
3. The EPA regulations governed the handling of pollutants which the EPA determined were not susceptible to treatment by POTWs or would interfere with the operation of

POTWs. More specifically, the regulations prohibited the introduction into a POTW of pollutants which would cause corrosive structural damage to the POTW, or discharges with a pH lower than 5.0. Title 40, Code of Federal Regulations, Section 403.5(b)(2). The regulations also prohibited the discharge of "any trucked or hauled pollutants" into sewer systems leading to POTWs "except at discharge points designated by the POTW." Title 40 Code of Federal Regulations, Section 403.5(b)(8).

DEFENDANT BEF CORP.

4. Defendant BEF was a Pennsylvania corporation headquartered at 1670 Race Street Allentown, Pennsylvania.

5. Defendant BEF was owned and operated by defendant ELWARD B. BREWER, charged elsewhere in this Information.

6. Defendant BEF bought used one-hour photo minilabs, refurbished the systems, and re-sold them.

7. Defendant BEF's customers used the photo minilabs to provide on-site, 24-hour photo development services.

8. Defendant BEF cleaned old photo-minilabs as the first step in the refurbishment process. The cleaning stage involved emptying containers which held chemicals--including silver solutions--used in the photo development process, power washing the system, and removing chemical deposits that had accumulated on internal components over time.

9. Defendant BEF removed chemical deposits from internal components by scrubbing the components with solvents, soaking them in an acidic solution, and rinsing them with water. This process generated caustic wastewater which contained toxic and hazardous pollutants.

10. Defendant BEF cleaned photo minilabs at its primary location at 1670 Race Street, Allentown, Pennsylvania (the "Race Street facility"). The drains at the Race Street facility were connected to sewer lines leading to a POTW operated by the Borough of Catasauqua.

11. Defendant BEF also cleaned minilabs at a warehouse located at 2041 Avenue C, Hanover Township, Pennsylvania (the "Avenue C facility"). The Avenue C facility contained a drainage pit which was connected to sewer lines leading to a POTW operated by the City of Bethlehem.

12. Defendant BEF also had offices located at 1737 Neva Street, South Whitehall, Pennsylvania (the "Neva Street offices"). BEF did not clean minilabs at the Neva Street offices, but trucked barrels of wastewater to the site for disposal in a drain which was connected to sewer lines leading to a POTW operated by the City of Allentown.

DEFENDANT BEF'S BUSINESS AND REGULATORY HISTORY

13. Defendant BEF initially operated out of the Neva Street offices.

14. Defendant BEF purchased the Race Street facility in or about 1994.

15. The Borough of Catasauqua notified BEF of its wastewater permit requirements in 1994, including limits regarding the discharge of silver into the sewer system.

16. Testing by the Borough of Catasauqua in 1996 revealed that defendant BEF was exceeding local limits for silver and other pollutants.

17. The Borough of Catasauqua issued a violation and penalty upon defendant BEF in 1996 stemming from defendant BEF's discharge of silver and other pollutants into the borough's POTW.

18. Defendant BEF notified the Borough of Catasauqua that it was no longer cleaning photo-minilabs at the Race Street facility after the Borough issued its notice of violation and penalty.

19. Defendant BEF continued to clean photo minilabs at the Race Street facility in Allentown after the 1996 incident with the Catasauqua POTW, but trucked the silver-laden wastewater to its Avenue C facility in Bethlehem for disposal into the drain pit there.

20. Defendant BEF also built an acid bath at the Avenue C facility to dissolve chemical deposits on the internal components of the photo mini-labs. Defendant BEF discharged wastewater from the acid bath directly into the drainage pit without first neutralizing the pH level.

21. Defendant BEF never notified the City of Bethlehem of the nature or source of its discharges into the City's POTW.

22. The City of Bethlehem tested effluent from defendant BEF's Avenue C facility in March 2000 and determined that it exceeded local limits for pH, silver, and other toxic pollutants.

23. The City of Bethlehem issued a notice of non-compliance to defendant BEF on April 18, 2000, and assessed defendant BEF a \$4,900 penalty.

24. Defendant BEF notified the City of Bethlehem that it had capped the drainage pit at the Avenue C facility in April 2000.

25. Defendant BEF trucked silver-laden wastewater from its Race Street facility to its Neva street offices, and dumped the wastewater into the drain there (which discharged to the Allentown POTW) between May and September 2000.

CLEAN WATER ACT VIOLATION

From in or about December 1997 through in or about August 2000, at Bethlehem, in the Eastern District of Pennsylvania, the defendant

BEF CORP.

knowingly violated national pretreatment standards and prohibitions developed under the Clean Water Act and its accompanying regulations, in that, defendant BEF CORP. introduced into the City of Bethlehem publicly-owned treatment works pollutants which had a pH less than 5 in violation of 33 U.S.C. § 1317(b)(1) and 40 C.F.R. § 403.5(b)(2).

In violation of Title 33, United States Code, Section 1319(c)(2)(A).

COUNT TWO

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Paragraphs 1 through 25 of Count One are incorporated here.
2. From in or about December 1997 through in or about August 2000, at

Bethlehem, in the Eastern District of Pennsylvania, the defendant

BEF CORP.

knowingly violated national pretreatment standards and prohibitions developed under the Clean Water Act and its accompanying regulations, in that, defendant BEF CORP. introduced trucked pollutants into the City of Bethlehem publicly-owned treatment works ("POTW") at a discharge point not designated by the POTW for that purpose in violation of 33 U.S.C. § 1317(b)(1) and 40 C.F.R. § 403.5(b)(8).

In violation of Title 33, United States Code, Section 1319(c)(2)(A).

COUNT THREE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Paragraphs 1 through 25 of Count One are incorporated here.
2. In or about August 2000, at South Whitehall, in the Eastern District of Pennsylvania, the defendant

BEF CORP.

knowingly violated national pretreatment standards and prohibitions developed under the Clean Water Act and its accompanying regulations, in that, defendant BEF CORP. introduced trucked pollutants into sewer lines leading to the City of Allentown publicly-owned treatment works ("POTW") at a discharge point not designated by the POTW for that purpose in violation of 33 U.S.C. § 1317(b)(1) and 40 C.F.R. § 403.5(b)(8).

In violation of Title 33, United States Code, Section 1319(c)(2)(A).

COUNT FOUR

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Paragraphs 1 through 25 of Count One are incorporated here.
2. From in or about December 1997 through in or about August 2000, at the City of Bethlehem, in the Eastern District of Pennsylvania, defendant

ELWARD B. BREWER

negligently violated national pretreatment standards and prohibitions developed under the Clean Water Act and its accompanying regulations, in that, he introduced and caused to be introduced trucked pollutants into the City of Bethlehem publicly-owned treatment works ("POTW") at a discharge point not designated by the POTW for that purpose in violation of 33 U.S.C. § 1317(b)(1) and 40 C.F.R. § 403.5(b)(8).

In violation of Title 33, United States Code, Section 1319(c)(1)(A) and Title 18, United States Code, Section 2.

PATRICK L. MEEHAN
UNITED STATES ATTORNEY